land Telephone and Telegraph Co. v. *City of Evansville,* 127 Fed. 187; *Daniels* v. *Wilson,* 73 Ill. App. 287; *Railway Co.* v. *Worthington,* 88 Tex. 562. And in case of doubt arising from the language used in the charter, or the nature of the business claimed to be within the implied powers of the charter, or the general policy of the state in reference to the powers or privilege claimed, the doubt is resolved against the corporation. *Fertilizing Co.* v. *Hyde Park,* 97 U. S. 659; *People* v. *Palace Car Co.,* 175 Ill. 124; *People* v. *Gas Co.* 130 Ill. 268. In the principal case the court, after considering the charter of the corporation with reference to these principles and the general policy of the laws of Texas in regard to the liquor traffic, reached the conclusion that such acts were not within the implied powers of the golf club. In the light of present day views their decision was no doubt correct. A few years ago, however, the "nineteenth hole" was regarded, at least by golfers, as the most important one on the course, and a Scotch highball an essential to the Scotch game. The decision in the case clearly represents the changing spirit of the times.

CORPORATIONS—RIGHT OF MONOPOLY TO RECOVER ON CONTRACT OF SALE.—The Corn Products Company entered into a contract with the Wilder Manufacturing Company to sell glucose to the latter. Among the stipulations in the contract it was provided that the vendee was to receive a stipulated percentage upon the amount of the purchase made in one year, to be paid at the end of the following year, *provided* that during that time the company dealt with no one but the combination. Upon a suit by the refining company for the price of goods sold, the manufacturing company defended upon the grounds that the refining company had no legal existence as it was a combination in restraint of trade, and further that the contract itself being in restraint of trade, the plaintiff could not recover the price of goods sold thereunder. *Held*—that the refining company could recover. *D. R. Wilder Manufacturing Co.* v. *Corn Products Refining Co.,* 35 Sup. Ct. 398.

The manufacturing company having dealt with the refining company as an existing concern possessing the capacity to sell, the assertion that it had no existence because it was a combination in restraint of trade was irrelevant to the question of liability for goods sold, and being a mere collateral attack, could not be sustained. *Mackall* v. *Chesapeake & O. Canal Co.,* 94 U. S. 308, *American Steel & Wire Co.* v. *Wire Drawers etc. Union,* 90 Fed. 608. The remaining question in the case was whether the contract was a monopolistic one so as to come under the principle that a court will not lend its aid in any way to a party seeking to realize the fruits of an agreement that appears to be tainted with illegality. *Continental Wall Paper Co.* v. *Voight & Sons Co.,* 212 U. S. 28, 29 Sup. Ct. 280, 7 MICH. LAW REV. 608. The court held that a rebate contract such as this was distinguishable from one so illegal in character as that in *Continental Wall Paper Co.* v. *Voight and Sons Co.,* supra., and was merely collateral to the monopoly and not illegal. *U. S.* v. *Greenhut,* 51 Fed. 213; *Olmstead* v. *Distilling and Cattle Feeding Co.,* 77 Fed. 265; *Whitewell* v. *Continental Tobacco Co.,* 125 Fed. 454; *Bessire & Co.* v. *Corn Products Mfg. Co.,* (Ind. App.) 94 N. E. 353. The contract itself not

being illegal, a recovery may be had for goods sold thereunder and the question of corporate existence is merely collateral thereto and cannot be raised. *Connolly* v. *Union Sewer Pipe Co.*, 184 U. S. 540.

DAMAGES—INSTRUCTIONS.—Appellee sued appellant in an action for personal injuries and recovered damages in the trial court. The trial court in instructing the jury told them they might find a verdict for such an amount as in their judgment the evidence of the case warranted and enumerated certain things they might take into consideration, but did not give any instructions concerning contributory negligence, and the defense failed to ask for such. *Held*, that the instructions were good and correctly stated the rule of law which obtained in Mississippi as to guiding the jury. *Lindsay Wagon Co.* v. *Nix*, (Miss. 1915) 67 So. 459.

In the leading case of *B. & O. Ry. Co.* v. *Carr*, 71 Md. 135, the rule was laid down that an instruction which told the jury they might give such damages as in their judgment, under the circumstances, would compensate the plaintiff, was bad. The case held that the court "must inform the jury what was the true measure of damages, whether the point was taken or not." A jury, in other words, cannot use their own discretion in awarding damages, but must follow settled rules which the court must give them. *Chicago, E. & L. S. Ry. Co.* v. *Adamick*, 33 Ill. App. 412; *Chicago, B. & O. Ry. Co.* v. *Kuck*, 112 Ill. App. 620. In cases of personal injury, however, in some jurisdictions the strict rule is relaxed and it is held that if the jury are told that they may use their judgment "in view of all the evidence" that is sufficient. *Pittsburg C. C. & St. L. Ry. Co.* v. *Carlson*, 24 Ind. App. 559; *Gulf & S. I. Ry Co.* v. *Nelson*, 82 Miss. 653; *Kelley* v. *Stewart*, 93 Mo. App. 47; *Boltz* v. *Town of Sullivan*, 101 Wisc. 608. Contra. *L. S. & M. S. Ry. Co.* v. *May*, 33 Ill. App. 366; *Louisville & N. Ry. Co.* v. *Mason*, 24 Ky. Law Rep. 1623. This case also holds, due however to a Mississippi statute, that the court cannot of its own accord instruct on points not asked for, whereas in *B. & O. Ry. Co.* v. *Carr* it was held to be the duty of the court to do so.

DAMAGES—MISTAKE IN TELEGRAM.—Plaintiff received the following message to be delivered, "Button pike eighty thousand francs." The agent of plaintiff delivered it to the agent of defendant to be transmitted under an agreement existing between the two companies. The words "Button pike," were code words indicating the sender and also containing an order to pay the sum later mentioned. In transmission a mistake was made, not in code parts of the message but in changing "eighty" to "eight." Due to this error the sender suffered large damages which he recovered from plaintiff who now sues for the mistake of the defendant. The action is brought in tort because of a statute in Nebraska making telegraph companies liable for all damages resulting from mistakes. *Held* defendant was liable for the whole damage. *American Express Co.* v. *Postal Telegraph-Cable Co. of Nebraska*, (Neb. 1915) 151 N. W. 240.

Due to the statute of Nebraska which made telegraph companies liable for all damages resulting from mistake or non-delivery of messages, and decisions